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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/616,994	07/11/2003	Uwe Folchert	202-064	2777

7590

11/05/2004

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EXAMINER

BURCH, MELODY M

ART UNIT	PAPER NUMBER
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3683

DATE MAILED: 11/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/616,994

Applicant(s)

FOLCHERT

Examiner

Melody M. Burch

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 October 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 August 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Priority

1. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Election/Restrictions

2. Applicant's election without traverse of Species II in the reply filed on 10/26/04 is acknowledged.

Drawings

3. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the vehicle body and vehicle axles claimed in claim 10 must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

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Sheet” in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

4. The disclosure is objected to because of the following informalities: “202” in line 11 of pg. 1 should be changed to --2002--.

Appropriate correction is required.

5. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: the specification lacks proper antecedent basis for the phrase “the pressure in at least one of the first and second pressurized medium spaces is greater than the maximum actual compression end pressure of the compressor”.

Examiner notes that the specification discusses in line 8 of pg. 4 “the actual compressor end pressure” but specifically states “a higher pressure can be generated in the pressurized medium chambers than the actual compressor end pressure”. The claim, on the other hand, recites that the pressure in one of the medium spaces (not the medium chambers) is greater than the actual compression end pressure.

Claim Objections

6. Claim 6 is objected to because of the following informalities: the phrase “greater than” in line 3 should be changed to --greater than--. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

8. Claims 1-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Re: claims 1 and 10. The phrase "said pressurized medium supply vessel" first claimed in line 11 is indefinite. It is unclear to the Examiner whether the Applicant intends to refer particularly to one of the pressurized medium supply vessels or generally to the pressurized medium supply vessel means.

Re: claim 6. The phrase "the maximum actual compression end pressure" in lines 3-4 lacks proper antecedent basis in the claim.

Re: claim 7. The phrase "said pressurized air line" in lines 2-3 is indefinite. It is unclear to the Examiner as to which air line Applicant intends to refer to. Also, the phrase "the external control operations" in the last line of the claim lacks proper antecedent basis in the claim.

Re: claim 11. The phrase "said fourth pressurized air line" in line 2 lacks proper antecedent basis.

Re: claim 11. the phrase "transferring...sequentially into the first pressurized medium space..." is indefinite. The use of the word "sequentially" suggests that transferring takes place into something else after the transfer into the first pressurized medium space, however, no other transfer input is mentioned. Clarification is required.

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Re: claim 11. The phrase "to transfer the pressurized medium into said air dryer when the first or the second pressurized medium space is not connected to said air dryer" is indefinite. It is unclear to the Examiner how the medium can be transferred to a space to which it is not connected. Clarification is required.

The remaining claims are indefinite due to their dependency from one of claims 1 and 10.

Claim Rejections - 35 USC § 102

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1, 4-7, 10, and 11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent 4858895 to Buma et al.

Re: claims 1, 4, 6, and 10. As best understood, Buma et al. show in figure 1 a closed level control system for a vehicle having a vehicle body, vehicle axles and pressurized medium chambers with which the vehicle body is suspended relative to corresponding ones of said vehicle axles, the closed level control system comprising: pressurized medium supply vessel means having first and second pressurized medium spaces 33,34 for holding a medium under pressure as a pressurized medium; said first and second pressurized medium spaces having no direct connection therebetween as shown; a compressor 3 for transferring said pressurized medium between said

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pressurized medium supply vessel 33,34 and said pressure medium chambers 50,50FR; said compressor having an input 1 and an output 2; first (5) and second (35) controllable directional valves and each one of said valves having at least two switching states; and, said first controllable directional valve 5 being switchable to connect either said first pressure medium space or said second pressure medium space (particularly the second pressure medium space) to said compressor input or to said compressor output (particularly the compressor input) so that pressurized medium from said pressurized medium chambers can be transferred into said first pressurized medium space or into said second pressurized medium space or pressurized medium from said first pressurized medium space or from said second pressurized medium space can be transferred to said pressurized medium chambers.

Re: claim 5. Buma et al. disclose the limitation wherein the first and second pressurized medium spaces have different pressure levels specifically high (vessel 33) and low (vessel 34) pressure levels.

Re: claim 7. Buma et al. show in figure 1 the system further comprising an additional air line 45,40R connected into the pressurized air line 41,43 of the system to facilitate control of an external apparatus 50RL utilizing the pressure in at least one of the first and second pressurized medium spaces, and the residual pressure in the other one of the pressurized medium spaces being available to execute a level change of the level control system directly after the external control operations, as best understood.

Re: claim 11. As best understood, Buma et al. show the method comprising the steps of: providing an air dryer 7 in the fourth pressurized air line on which element 7 is

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located, transferring pressurized medium from the air dryer sequentially into the first pressurized medium space or into the second pressurized medium space with the pressurized medium space being at a pressure higher than the actual compression end pressure of the compressor, and utilizing the compressor to draw pressurized medium from the second or the first pressurized medium space, which is not to be filled, and to transfer the pressurized medium into the air dryer when the first or the second pressurized medium space is not connected to the air dryer or no pressurized medium from the air dryer is transferred into the first or the second pressurized medium space.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Buma et al. in view of US Patent 4015859 to Hegel et al.

Buma et al. describe the invention substantially as set forth above, but do not include the limitation of an external apparatus being a tire inflating device. Hegel et al. teaches in col. 2 lines 42-43 the use of a air in a level control system being used to control an external apparatus in the form of a tire inflating device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the vehicle of Buma et al. to have included an external apparatus in the form of

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a tire inflating device, as taught by Hegel et al. in order to use the pressurized air in a way to enhance vehicle ride feel by maintaining adequate tire pressure.

Allowable Subject Matter

13. Claims 2, 3, and 9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims. Buma et al. fail to show or suggest the first, second, third, and fourth lines being blocked or unblocked with respect to the switching states of the directional valves as recited in claim 2.

Conclusion

14. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. US Patents: 6354617 to Behmenburg et al., 6116586 to Westerkamp et al., and 6098967 to Folchert teach the use of similar vehicle level control systems.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Melody M. Burch whose telephone number is 703-306-4618. The examiner can normally be reached on Monday-Friday (7:30 AM-4:00 PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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November 2, 2004

Melody M. Buck
11/2/04